



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,814	07/11/2000	Toshio Kobayashi	2038-247	1159

7590

12/17/2002

Lowe Hauptman Gopstein  
Gilman & Berner LLP  
Suite 310  
1700 Diagonal Road  
Alexandria, VA 22314

EXAMINER

GUARRIELLO, JOHN J

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 12/17/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09/613814	Applicant(s) Kobayashi et al.
Examiner John Guarriello	Group/Art Unit 1791

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 10/7/2002
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-19 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1771

### **DETAILED ACTION**

15. The Examiner acknowledges papers # 6 and 7, the amendment with drawings, and the submission of priority papers of 10/7/2002. Drawings are approved.

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

17. Claims 1-4, 7-10, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 96/38620.

Rejection is maintained substantially as in paper # 5 of 7/5/2002.

Applicant's arguments regarding orthogonal stretchability have been considered and reviewed but they are not deemed to be persuasive because WO'620 describes stretchability in all directions, page 10, lines 29-34, which would include orthogonal or perpendicular stretching. Thus, even though this orthogonality is not stated it would be inherent with the description given by

Art Unit: 1771

WO'620. WO'620 still describes a laminate material having stretchability and recovery, breathability and barrier properties, (see abstract). WO'620 describes a nonwoven elastomeric web having at least one web of textile material discontinuously adhesive bonded to each side, (see abstract). WO'620 describes the basis weight in the range of 6.8 to 204 g/ square meter, (page 11, lines 32-33). WO'620 describes polyester fabric, (page 12, lines 9-14), which fiber is a continuous fiber material, (page 12, lines 13-15). WO'620 describes polyester yarn or polypropylene spunbonded layers, (see page 16, Examples 1 and 2). WO'620 describes the essential limitations of the claimed invention and the orthogonality is inherent. Claims still lack novelty.

***Claim Rejections - 35 USC § 103***

18. Claims 5, 6, 11-13, 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strack et al. 5,681,645.

Rejection is maintained substantially as in paper # 5 of 7/5/2002.

Applicant's arguments regarding orthogonality have been considered and

Art Unit: 1771

reviewed but they are not deemed to be persuasive because orthogonality is implied by column 9, lines 18-23 and in column 7, lines 51-62 as noted.

Applicant's argument regarding the lack of polyester and polypropylene have been considered but Strack describes these materials in Example 2, column 11, lines 64-67 and column 12, lines 1-10. Applicant's arguments regarding block polyether copolymers were considered but Strack describes this in Column 6, lines 22-50. Strack describes laminate material with stretchability and recovery, breathability and barrier properties, (see abstract). Strack describes a non-woven elastomeric web having at least one web of textile material discontinuously bonded to each side, (see abstract). Strack describes the laminate with at least two textile webs, a non-elastic textile web with stretch and recovery characteristics, which corresponds to the claimed fibrous assembly, and a textile web with non-woven elastomeric web properties, which corresponds to the claimed elastic sheet, (column 5, lines 58-67). Strack describe the various kinds of elastomeric web materials, (column 6, lines 22-67). Strack describes the use of the adhesive which

Art Unit: 1771

laminates the webs together so that the elasticity of the laminate will not be interfered, i.e. interfere with recoverability, (column 9, lines 35-61). Strack describes the use for the laminate, garment with thermal insulation and a dirt barrier to protect the wearer, while having breathability for comfort, (column 11, lines 42-46). Strack differs from the claimed invention because it is silent about stating the orthogonal stretchability.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to approximate the orthogonal stretchability motivated with the expectation that Strack describes (machine and cross direction, column 9, lines 14-23; column 7, lines 51-62), like orthogonal stretchability) power recoverability is added to these materials to the extent that they stretch, (column 9, lines 18-19).

19. Rejections not maintained under 35 U.S.C. section 112 second paragraph are withdrawn because of the amendment to the claims.

Art Unit: 1771

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is (703) 308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

Art Unit: 1771

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



John J. Guarriello:gj

Patent Examiner

December 3, 2002



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700